





**CITY COUNCIL
STAFF REPORT**

TO: Mayor and Councilmembers
DATE: December 4, 2018
FROM: David Dowswell, Contract Planner 
THROUGH: John Donlevy, Jr., City Manager 
SUBJECT: Public Hearing and Consideration of proposed amendments to Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance) regarding sidewalk and stationary food vendors operating within city limits.

RECOMMENDATION: Staff recommends the City Council take the following actions:

- 1) Find the proposed amendments Categorically Exempt from CEQA, Class 1 Section 15301 (Existing Facilities) and Class 4 Section 15304 (Minor Alterations to Land); and
- 2) Receive the staff report, conduct the public hearing, and introduce Ordinance No. 2018-06 amending Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance) of the Municipal Code.

BACKGROUND: On May 23, 2018 Contract Planner Dowswell discussed with the Planning Commission an application to allow a Buckhorn food truck to sell food on the property located at 3 Grant Avenue (Winters General Store).

On July 24, 2018 the Planning Commission at a study session discussed a number of possible changes to Chapter 5.36 Street Vendors Ordinance and Title 17 Zoning Ordinance regarding stationary food vendors

On August 8, 2018 Sam Donlevy, Management Intern, held a meeting with representatives from the businesses located on East Main Street and Main Street. At the meeting there were two major topics of discussion, the proximity of food trucks from schools and the creating a clearer Exhibit A map.

On September 17, 2018 Governor Brown signed into law Senate Bill (SB) 946 (Attachment A) which regulates sidewalk vendors. This new law requires numerous changes to our current regulations, which are included in the draft ordinance (Attachment B).

On September 25, 2018 a study session was held where comments from the two planning commissioners and the public were taken regarding the regulation of stationary food vendors (food trucks). At the study session most people spoke in support of allowing food trucks. Stan Lester questioned why the draft ordinance did not allow for food trucks to locate on Main Street.

Presently, Yolo County has a simple 4 step process for stationary and mobile food trucks to locate within the county. These steps are:

- Stationary or mobile food vendor approval to operate in the county
- Processing and approval for application to sell within the county
- Inspection of vehicle and labeling of tags and legal permitting
- Finalized approval to operate within the county

While these vendors are able to operate in the county, our current ordinance does not allow for county approved stationary vendors (food trucks) to operate within city limits.

October 23, 2018 the Planning Commission held a public hearing where the proposed amendments to the Municipal Code were considered. At the meeting a number of residents spoke. At the conclusion hearing the Commission recommended approval of the proposed ordinance, with some modifications highlighted in yellow (Attachment C). Included with the draft ordinance are a number of staff comments.

ANALYSIS: The amendments to Chapter 5.36 Street Vendors would add Section 5.36.080 regarding stationary food vendors and Section 5.36.180 regarding temporary permits. There are four key components to the proposed amendments:

Mobile Food Vendors

Staff is not proposing and significant changes to the regulations governing mobile food trucks in Section 5.36.060B. These are the trucks which stop at construction sites for a short period before moving to another site. They also include ice cream trucks.

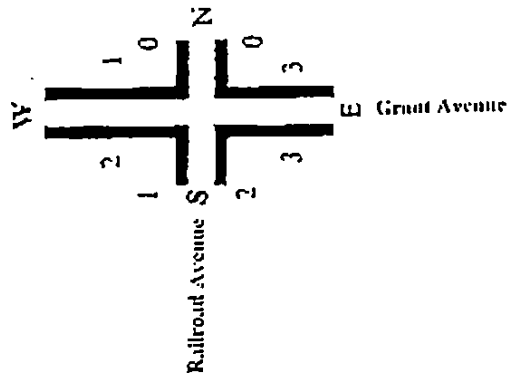
Stationary Food Vendors (Food Trucks)

Location: Currently stationary food vendors, which does not include food trucks, are only permitted to locate at the intersection of Grant Avenue and Railroad Avenue from Grant Avenue east to Dutton Street on the north side of the street and to East Street on the south side of Grant Avenue; both sides of Railroad Avenue south to Baker Street; west on Grant Avenue three-hundred (300) feet as shown in the image below. No

stationary food vendors are permitted north of Railroad Avenue, nor are they permitted within five hundred (500) feet of the high school campus publicly owned property. "Special use permits" are required from the Planning Commission. The Planning Commission recommended deleting the requirement that food trucks not be allowed to locate within 500 feet of a school or publicly owned property. The Commission felt that the issue of separation from a school would be discussed during the conditional use permit process, which requires a public hearing.

The illustration below, which is taken from the Section 5.36.080 of the Municipal Code, only allows stationary food vendors to locate at the intersection of Railroad Avenue and Grant Avenue. Staff proposed to the Planning Commission Section 5.36 of the Municipal Code be expanded allow stationary food vendors with a conditional use permit", which would include food trucks, to locate in C-1, C-2 and C-H zones (Land Use/Zone Matrix in Chapter 17.52.020) and in D-A and D-B zones on Railroad Avenue, Grant Avenue and Secondary Streets (Table 17.58.2). Staff proposed food trucks not be allowed to locate on Main Street and that be separated a minimum of 200 feet from another food truck. (The distance is 200 feet from El Verduzco food truck and the site where the proposed Buckhorn food truck would be located.) The Planning Commission supported amending the Municipal Code by expanding the areas where food trucks are permitted by allowing them on Main Street and by not requiring they be separated a minimum distance from another food truck.

At the meeting with the Main Street businesses on August 8 the owners of Kountry Kitchen wanted the ability for a food truck to locate on their property. According to the illustration below only one (1) food truck is allowed at the northwest intersection/corner of Grant and Railroad Avenues. Staff recommended the Planning Commission support keeping this restriction, which they supported, limiting this corner to only one food truck. There is an application pending before the Planning Commission for a Buckhorn food truck to locate on the property at northwest side of the intersection of Grant and Railroad Avenues. If this application were approved, and the restriction limiting this corner to one (1) food truck is not changed, the owners of Kountry Kitchen could apply to have a food truck on their property only on those days the Buckhorn Food Truck was not using the property.



Size: At the July 24, 2018 Planning Commission meeting staff discussed limiting the size of stationary food vendors (food trucks). The Commission felt having an actual size limit might result in a situation where a food truck which exceeded the dimensions would not be allowed. This language was removed from the draft ordinance that the Commission recommended approval of on October 23. The Planning Commission felt the size of the food truck could be determined during the conditional use permit process rather than included as part of the ordinance.

Marketability: Staff proposed stationary food vendors be allowed to provide benches, tables, chairs, and other such materials to improve the dining experience of those seeking to dine at their business. Staff also recommended that all equipment/materials associated with a food truck must be removed when the food truck is not open for business and must be stored offsite. Allowing materials to be stored onsite could be considered as a part of the use permit process. The Planning Commission agreed with these two changes.

Permits: Staff is looking to add to the ordinance permits which feature short term lengths of stay for vendors. This is specifically catered to stationary food vendors that would be in town for short periods of time compared to stationary food vendors or carts that function for times ranging from weeks to months.

Other: Staff proposed a number of amendments to Title 17 (Zoning Ordinance), they include adding to Section 17.04 "Introductory Provisions and Definitions" a definition for "stationary food vendor", amending the Land Use Matrix in Chapter 17.52.020 by adding "stationary food vendors" as a conditional use in C-1, C-2 and C-H zones. Staff also proposed amending Table 17.58.2 in the Form Based Code adding "stationary food vendors" as a conditional use D-A and D-B zones on Railroad and Grant Avenues and on secondary streets. All of these changes are consistent with the Planning Commission's recommendations.

There are a number of cities that have ordinances regulating stationary food vendors (food trucks). The City of Sacramento has one of the most current ordinances, which is provided as information (Attachment D).

Sidewalk Vendors

With the adoption of SB 946 many of the City's existing regulations in Chapter 5.36 are no longer legal requiring them to be updated.

Location: Currently sidewalk vendors are allowed to operate within the city but only at the intersection of Railroad and Grant Avenues. With the adoption of SB 946 sidewalk vendors may locate on any public street or public parks. City's may prohibit stationary sidewalk vendors in residential neighborhoods and may restrict the hours roaming sidewalk vendors can vend in residential neighborhoods. The proposed ordinance would allow roaming sidewalk vendors only to vend from 9:00 am to 5:00 pm.

Size: At the July 24, 2018 Planning Commission felt having an actual size limit for food trucks might result in a situation where a food truck, which exceeded the dimensions, would not be allowed. Staff proposed, and the Commission supported, limiting the size of sidewalk vendor stands and carts to eight feet in height and length and four feet in width. The Commission felt it was necessary to limit their size so they do not block sidewalks.

Marketability: Staff proposed sidewalk vendors be allowed to display a small A-frame sign to advertise themselves so long as the sign does not impede the use of the sidewalk. Staff also proposed there be a way for a sidewalk vendor to dispose trash if they are not located near a trash container. The Commission supported these two changes.

Permits: Staff is recommending a sidewalk vendor permit be required. This permit would be issued for one year but could be extended by the zoning administrator. Sidewalk vendors, like all businesses, will be required to have a business license and County health department clearance. The sidewalk vendors often seen in town do not have a business license or health department clearance.

PROJECT NOTIFICATION:

An 1/8 page public notice was published in the Winters Express on 11/22/18 and notices Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since 11/29/18.

ENVIRONMENTAL ASSESSMENT:

Staff has concluded that the proposed amendments are Categorically Exempt from CEQA, Class 1 Section 15301 (Existing Facilities) and Class 4 Section 15304 (Minor Alterations to Land).

ATTACHMENTS:

- A. SB 946 Sidewalk Vendors Law

- B. Ordinance 2018-06 showing proposed amendments to Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance) of the Winters Municipal Code
- C. October 23, 2018 Planning Commission minutes
- D. City of Sacramento's Food Vending Vehicle Ordinance



California
LEGISLATIVE INFORMATION

Home

Bill Information

California Law

Publications

Other Resources

My Subscriptions

My Favorites

SB-946 Sidewalk vendors. (2017-2018)

SHARE THIS:



Date Published: 09/17/2018 09:00 PM

Senate Bill No. 946

CHAPTER 459

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[Approved by Governor September 17, 2018. Filed with Secretary of State
September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

ATTACHMENT A

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.
- (2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.
- (3) Sidewalk vending contributes to a safe and dynamic public space.
- (4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.
- (5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.
- (6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California's economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.

(b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

SEC. 2. Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.2. Sidewalk Vendors

51036. For purposes of this chapter, the following definitions apply:

- (a) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.
- (b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (c) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.
- (d) "Local authority" means a chartered or general law city, county, or city and county.

51037. (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

51038. (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority's sidewalk vending program shall comply with all of the following standards:

- (1) A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority, unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

(1) Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.

(2) Requirements to maintain sanitary conditions.

(3) Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

(4) Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

(5) Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.

(6) Requiring additional licenses from other state or local agencies to the extent required by law.

(7) Requiring compliance with other generally applicable laws.

(8) Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

(A) The name and current mailing address of the sidewalk vendor.

(B) A description of the merchandise offered for sale or exchange.

(C) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(D) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

(E) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(d) Notwithstanding subdivision (b), a local authority may do both of the following:

(1) Prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

51039. (a) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.

(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the

jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person's ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

(3) The local authority may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.

(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.

ORDINANCE NO. 2018 – 06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS
AMENDING CHAPTER 5.36 (STREET VENDORS) AND CHAPTER 17.04 (INTRODUCTORY
PROVISIONS AND DEFINITIONS), CHAPTER 17.52.020 (LAND USE/ZONE MATRIX AND
TABLE 17.58.2 (PERMITTED USES, FORM-BASED CODE FOR DOWNTOWN) OF THE
WINTERS MUNICIPAL CODE

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to amend various sections of the text in the Winters Municipal Code (the "Municipal Code") necessary to regulate Stationary, Mobile and Sidewalk Food Vendors.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Amendments to Title 17. The City hereby makes the following amendments to Title 17 of the Municipal Code:

a. Chapter 5.36 of the Municipal Code is hereby amended to read as follows:

Chapter 5.36
STREETFOOD VENDORS

Sections:

<u>5.36.010</u>	Purpose <u>Findings.</u>
<u>5.36.020</u>	Definitions.
<u>5.36.030</u>	Permit.
<u>5.36.040</u>	Application for permit.
<u>5.36.050</u>	Revocation of permit.
<u>5.36.060</u>	Regulations—Motor-Food vending vehicles.
<u>5.36.070</u>	<u>Sidewalk vendors</u>
<u>5.36.0980</u>	Violation—Nuisance.
<u>5.36.1090</u>	Insurance.
<u>5.36.1400</u>	Fees.
<u>5.36.1210</u>	Renewals.
<u>5.36.1320</u>	Enforcement.
<u>5.36.1430</u>	No preemption.
<u>5.36.1540</u>	Violation—Penalty.
<u>5.36.1650</u>	Nuisance—Injunction.
<u>5.36.160</u>	<u>Temporary Permits</u>

5.36.010 ~~Findings~~Purpose.

The city recognizes the right of its citizenry to be relatively free from noise and obstruction when traversing the city streets. The city also recognizes the right of its citizenry to purchase reliable products from responsible vendors without a fixed place of businesses. The city by this regulatory chapter seeks to balance those competing interests. The city finds that the cost of this regulation should be borne by those individuals, companies and groups which seek to benefit financially from street vending or mobile ~~food~~ vending, since it should be their burden to insure to the Winters citizens that their sales of goods shall be done in a manner least obstructive to their right to travel.

5.36.020 Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"City" means city of Winters.

"Food vending vehicle" includes any motor vehicle from which food or beverages are sold directly to a customer; does not include vehicles that involve the delivery of food or beverages ordered by home delivery customers.

"Public street or sidewalk" includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

"Mobile food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle on any public street.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only for a brief time to complete a transaction.

"Sidewalk vendor" means a person who sells food, beverages or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, in a public park, upon a public sidewalk or other pedestrian path.

"Stationary food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle located on private property for more than four (4) hours in a single day.

"Stationary sidewalk vendor" means any person who sells food, beverages or merchandise from a fixed location from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon public sidewalk or other pedestrian path, newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered with the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

~~"Vendor" means any person who operates a food vending vehicle, stand or cart, including an agent or employee of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle, or from his or her person.~~

5.36.030 Permit.

It is unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street or on private property in the city without first securing a permit and paying the fee therefor.

5.36.040 Application for permit.

Application for a permit shall be made upon a form provided by the city. The applicant shall truthfully state in full the information requested on the application:

- A. Name and address of present place of residence and length of residence at such address; also business address if other than present address;
- B. Address of place of residence during the past three (3) years if other than present address;
- C. Age of applicant;
- D. Physical description of applicant;
- E. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents, and the length of time of such employment or representation;
- F. Name and address of employer during the past three (3) years if other than the present employer;
- G. Description sufficient for identification of the type of commodity or commodities to be vended;
- H. Period of time for which the permit is applied;
- I. The date, or approximate date, of the last previous application for permit under this chapter, if any;
- J. If a permit is issued to the applicant under this chapter has ever been revoked;
- ~~K. If the applicant has ever been convicted of a violation of a felony under the laws of the state of California or any other state or federal law of the United States;~~
- ~~L. Names of commodities;~~
- ~~MK. Names of the three (3) most recent communities where the applicant has engaged in street vending;~~
- ~~NL. Proposed method of operation;~~

Comment [DD1]: The City Attorney does not see the relevance of this restriction. A convicted felon who has served their time shouldn't be prevented from obtaining a permit.

Comment [DD2]: Redundant. See "G" above.

QM. Signature of applicant;

PN. Social Security Number of applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the city in connection with the application for the permit.

The city clerk shall cause to be kept in his or her office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications.

Applications for permits shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No permit shall be issued to any person who has been convicted ~~of the commission of a felony under the laws of the state or any other state or federal law of the United States, within five years of the date of the application;~~ nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.

Comment [DD3]: See comment DD1 above.

5.36.050 Revocation of permit.

Any permit issued hereunder shall be revoked by the chief of police if the holder of the permit is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter. Immediately upon such revocation, written notice thereof shall be given by the chief of police to the holder of the permit in person or by certified United States Mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the permit shall become null and void.

The permit shall state the expiration date thereof.

5.36.060 Regulations—~~Food vending Motor~~ vehicles.

The following rules and regulations shall be complied with by each person ~~using~~operating a food vending vehicle ~~for street vending~~.

A. Food Vendors

It shall be unlawful for any ~~street vendor food vendor~~ to ~~sell or attempt to sell any commodity~~:

1. ~~Sell or attempt to B~~by means of any outcry, sound, speaker or amplifier, or any instrument ~~or device which can be heard for a distance greater than three hundred (300)~~

feet, or when passing a hospital, or a church or other place of worship during the hours when services are being held, which violates the City of Winters noise ordinance contained in Chapter 8.20.

2. ~~Sell~~ Within five hundred (500) feet of any school or publicly owned property at any time unless a special use permit is approved by the community development department/planning commission. A special use permit shall not be required for fundraising activities/special sales/events which are sponsored by the school district or approved by the City.

Comment [DD4]: This restriction would apply to mobile and stationary food vendors. Should they be the same? Probably should not apply to mobile food vendors?

Comment [DD5]: Too important of an issue to approve at the department level.

3. ~~It is unlawful for any such vendor to use, play or employ the use of, any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loud speaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.~~

Comment [DD6]: Seems redundant. See "A" above.

4. ~~The use by any such vendor of any outcry, sound, amplifier, loudspeaker, radio, phonograph with a loud speaker or amplifier or any instrument or device which emits a loud sound shall be prohibited prior to nine a.m. or after seven p.m.~~

Comment [DD7]: This section was deleted because it essentially says the same thing as the section above.

B. Mobile Food Vendors

It ~~is~~ shall be unlawful for any mobile food vendor to:

1. Exceed a speed of twelve (12) miles an hour when ~~cruising/driving through~~ neighborhoods seeking sales or when attempting to make a sale;
2. Make more than two (2) stops in any one (1) block to make any sale;
3. Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;
4. Double park, or park in any manner contrary to any ordinance relating to parking when making a sale or attempting to make a sale ~~or when making a sale~~;
5. Make a U-turn on any block;
6. Drive a vehicle backwards ~~when making a sale or to make or attempting to make any~~ sale;
7. Sell to any person who is standing in the street;
8. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;
9. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes;
10. Conduct business within twenty (20) feet of any ~~handicapped/disabled~~ parking space or access ramp;

Comment [8]: Changed the wording to be the same as the wording in section s 1-3 above.

Comment [DD9]: Same as Comment #84 above.

11. Sell or attempt to sell along any particular route more than two (2) times during a twenty-four (24) hour period.

~~5.36.070 Regulations—Stands:~~

~~Vendors with stands must comply with the following regulations:~~

~~A. Hours of Operation. Vendors shall be allowed to engage in the business of vending only between the hours of nine a.m. and seven p.m., Monday through Saturday. No vending from stands shall be permitted on Sundays and observed holidays, except by appointment and approval from the city of Winters police department.~~

~~B. All vending stands must be removed from public property during non-vending hours.~~

~~C. Vendor stands shall not:~~

~~1. Exceed eight feet in length, eight feet in width, or eight feet in height;~~

~~2. Impede access to the entrance of any adjacent building or driveway;~~

~~3. Occupy more than half of the available sidewalk width or five feet of such sidewalk, whichever is less;~~

~~4. Locate within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space, access ramp, fire station driveway, or police department driveway.~~

~~D. All trash and debris accumulating within fifty feet of a stand shall be collected by the vendor and deposited in a trash container. (Ord. 91-10 § 2 (part); prior code § 10-5.507)~~

C. Stationary Food Vendor

Stationary food vendors shall comply with the following:

1. A use permit shall be obtained from the planning commission to allow a stationary food vendor except as allowed by subsection C2 below. The permit shall be processed in accordance with and subject to the use permit requirements contained in Chapter 17.20.

2. A special permit shall be obtained from the City to allow a stationary food vendor to participate in an event approved by the City.

3. Locate on privately owned land not within enclosed buildings on permanent foundations or in a public right-of-way.

4. Stationary food vending vehicles shall be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, overhangs, or other attractive shading devices, and temporary landscaping.

4. Hours of operation may be limited as determined by the planning commission. Minor modifications to the hours of operation may be approved by the zoning administrator.

5. Provide a trash container immediately adjacent to the food vending vehicle. Trash container must be removed from the site during non-vending hours. Additionally, vendors

must maintain the cleanliness of their site within twenty-five (25) feet surrounding their site.

6. Be limited to one (1) freestanding, non-illuminated sign, not exceeding four (4) feet in any dimension, to be placed within ten (10) feet of the stationary food vendor. These regulations do not include any graphics or signs painted directly onto the vehicle. No sign shall impede vehicle traffic, pedestrian right of way, or pedestrian personal vehicle traffic (bike lanes). No stationary food vendor signs shall be located within the Caltrans right-of-way.

7. Have a certificate of compliance from the county health department, as appropriate. Additionally, vendors must complete the Reciprocity Checklist of Yolo County.

8. Stationary food vending vehicles are permitted in the vicinity of Grant Avenue and Railroad Avenue along three (3) corridors from the intersection. Grant Avenue east to Dutton Street on the north side of the street and to East Street on the south side of Grant; both sides of Railroad Avenue south to Baker Street; west on Grant Avenue three-hundred (300) feet. In order to prevent the overconcentration of stationary food vendors in the vicinity of Grant Avenue and Railroad Avenue, the number and location of stationary food vendors shall be limited pursuant to Exhibit A in subsection 5.68.070C.

9. Stationary food vendors shall not be permitted within two hundred (200) feet from another stationary food vendor. Specialty events approved by the City may be exempted from the separation requirements.

Comment [DD10]: At the meeting with the business community Kountry Kitchen wanted there not be a separation requirement. Two hundred (200) feet is the distance from the existing Verduzco's food truck and the proposed Buckhorn food truck.

10. Stationary food vendors shall be prohibited from having chairs and tables for customer use unless approved by the planning commission. Any chairs and tables must be stored off site unless previously stated approval of the property owner is declared during the application process.

11. Stationary food vendors must comply with American Disabilities Act and other accessibility access standards.

12. Stationary food vendor permits may be revoked upon there being just cause.

-13. Stationary food vendors operating in parking lots must minimize the amount of parking spaces they are utilizing and cannot impede traffic flow entering, leaving, or within the parking lot.

14. Stationary food vendors operating adjacent to, or within close proximity to a traffic intersection cannot visually impair drivers utilizing said intersection.

5.36.070 Sidewalk vendors.

The following provisions shall regulate sidewalk vending stands and carts or other operations deemed similar by the zoning administrator, which operate on publicly owned land or parks not within enclosed buildings. Nothing in this section shall be construed to affect the applicability of

Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

1. A business license shall be obtained from the City to allow a sidewalk vendor. The permit shall be processed in accordance with the requirements contained in Chapter 5.04.
2. Stationary sidewalk vendors shall be prohibited from selling in residentially zoned neighborhoods.
3. Roaming sidewalk vendors are permitted to sell in residentially zoned neighborhoods; hours of operation shall be between 9:00 am and 5:00 p.m. Hours of operation in nonresidential areas shall be consistent with the hours of other businesses operating in the nonresidential area as determined by the zoning administrator.
4. All sidewalk vending stands, carts, signs, refuse containers and other material set up or provided by the vendor must be removed from the vending site during non-vending hours.
5. Sidewalk vending stands and carts shall not exceed eight (8) feet in height, eight (8) feet in length and four (4) feet in width; not impede access to the entrance of any adjacent building or driveway; not impede pedestrian right of way, or pedestrian personal vehicle traffic (bike lanes); not be located on sidewalks where there is not on-street parking immediately adjacent; and must comply with American Disabilities Act and other accessibility access standards.
6. Sidewalk vending stands and carts shall not be located within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, disabled parking space, access ramp, fire station or police department driveway.
7. Sidewalk vendors shall supply a way to dispose of trash if an existing trash container does not exist within twenty-five (25) feet of the stand or cart. Additionally, sidewalk vendors must maintain the cleanliness of their site and within twenty-five (25) feet surrounding their site.
8. Sidewalk vending stands and carts shall be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, awnings, or other attractive shading devices.
9. Sidewalk vending stands and carts shall be prohibited from having a signs except those that are limited to one (1) freestanding, non-illuminated sign not exceeding four (4) feet in any dimension, to be attached to or placed within ten (10) feet of the stand or cart. These regulations do not include any graphics or signs painted directly onto the vending stand or cart. No sign shall impede vehicle traffic, pedestrian right-of-way, or pedestrian personal vehicle traffic (bike lanes). No sidewalk vendor signs shall be located within the Caltrans right-of-way.

10. Sidewalk vendors shall obtain a certificate of compliance from the county health department, as appropriate. Additionally, vendors must complete the Reciprocity Checklist of Yolo County.

11. Sidewalk vendors locating near an intersection shall not create a sight distance problem.

12. Sidewalk vendors wanting to vend within a city park may vend only during those hours the park is open. Sidewalk vendors may not vend within a city park during a city-approved event when there is an exclusive agreement with one or more concessionaires.

13. In order to prevent an overconcentration of sidewalk vending stands and carts, due to traffic safety concerns, the number and location of sidewalk vendors at the intersection of Grant Avenue and Railroad Avenue shall be limited, pursuant to Exhibit A at the end of this section.

14. Sidewalk vendors shall be prohibited from having tables and chairs for customer use unless the vendor is located in a given area that has adequate sidewalk width or is specifically designed for such purpose such as a plaza, park or other public open space area with adequate restroom facilities.

15. Sidewalk vendor permits may be revoked upon there being just cause.

16. Sidewalk vendor permit shall expire in one (1) year and may be extended upon zoning administrator approval.

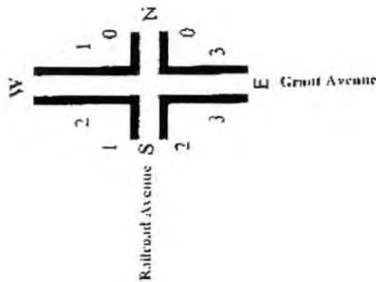


Exhibit A

5.36.090 Violation—Nuisance.

It is declared to be unlawful and shall constitute a nuisance for any person to violate the terms of this chapter.

5.36.04490 Insurance.

No permit shall be issued to an applicant unless the applicant furnishes proof to the city of a public liability bond or insurance policy in an amount not less than three hundred thousand dollars (\$300,000.00) for property damage and bodily injury liability, including injury resulting in death, caused by the applicant.

5.36.1200 Fees.

The city shall by resolution establish fees for the issuance of permits sufficient to offset the city's cost of regulation of street vendors. These fees shall be supplemental to any business license fees charged to street vendors. Both fees shall be payable upon application. The fees charged under this chapter shall be nonrefundable. Permits shall be valid for one (1) year from the date of issuance, unless sooner revoked as provided herein.

5.36.1310 Renewals.

Renewals shall be done on an annual basis. Application for renewals of permits shall be received no later than thirty (30) days prior to the expiration of the applicant's permit, or shall be processed as new applications. The city may review applications for renewal to determine that:

- A. The applicant is in full compliance with the provisions of this chapter;
 - B. The applicant has a currently effective insurance policy in the minimum amount provided in this chapter, or as amended by subsequent resolution of the Winters city council.
- If the city finds that the applicant meets the above requirements, the city shall issue a new permit.

5.36.14020 Enforcement.

Enforcement shall be implemented by the city manager or through a city staff person designated by him or her. In addition, any Winters police officer is authorized to enforce the provisions of this chapter. Such person shall have authority to issue citations based upon reasonable cause in a manner most suitable to the particular incident.

5.36.1530 No preemption.

This chapter shall not be interpreted to permit soliciting, or the procedures thereof or redress therefrom, where restricted by state law.

5.36.1450 Violation—Penalty.

Any person, firm, corporation, or organization which violates any provision of this chapter shall, upon conviction thereof be subject to the maximum allowable fine pursuant to the requirements set forth in state law.

Upon conviction thereof, punishment shall be a fine subject to the maximum allowable pursuant to the requirements set forth in state law, or imprisonment for a term not exceeding six ~~(6)~~ months, or by both a fine and imprisonment.

5.36.1750 Nuisance—Injunction.

Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

5.36.1850 Temporary Permits

Temporary permits provided to vendors are strictly regulated and shall provide guidelines in which vendors must abide by. These permits will be range in costs and shall be adjusted based on the length of time in which the food vendor is serving within the city limits and shall go into effect upon approval from the City and shall expire upon the designated time noted on the approved permit.

b. Subdivision (B) of Section 17.04 of the Municipal Code is hereby amended to read as follows:

Chapter 17.04

INTRODUCTORY PROVISIONS AND DEFINITIONS

B. Definitions.

"Stable" means a detached accessory building for the shelter of horses or similar hoofed animals.

"Stationary food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle located on private property for more than four (4) hours in a single day.

"Street line (right-of-way)" means the boundary between an existing or proposed street right-of-way and abutting property

17.52.020 Land Use/Zone Matrix.

LAND USE/ZONE MATRIX

KEY:

C= Conditional Use

P= Permitted Use

T= Temporary Use

Zoning Designations:

(A-1) General Agricultural
Industrial Park

(R-R) Rural Residential

(R-1) Single-Family Residential
Industrial

(R-2) One-and Two-Family
Public/Quasi-Public

(R-3) Multifamily Residential

(R-4) High Density Residential

(C-1) Neighborhood Commercial (M-1) Light Industrial

(C-2) Central Business District (M-2) Heavy

(C-H) Highway Service Commercial (PQP) Residential

(O-F) Office

(B/P) Business

(PD) Planned Development

AGRICULTURAL USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Agricultural Operation	P	C														P	
Animal Production	P															C	
Businesses and Uses Prohibited by State or Federal Law																	
COMMERCIAL AND OFFICE USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Adult Entertainment											C	C					

Automobile Repair, Major							C	C			C	C	P				
Automobile Repair, Minor							P	P	P		P						
Bar, Cocktail Lounge							C	C									
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Bed and Breakfast Inn			C	C	C	C		C									
Business Service							P	P		P	P						
Businesses and Uses Prohibited by State or Federal Law																	
Financial Institutions							P	P		P	P						
Equipment Sales, Rental, Repair							P	P			P						
Funeral Parlor								P			C						
Hotel, Motel								C	C								
Nurseries	P						P	P			C	C					
Office, Business and Medical							P	P		P	P						
Outdoor Sales							C	C			C						
Personal Retail Services							P	P									
Personal Storage								C			C	C			C	C	
Recreation, Indoor or Outdoor							C	C			C	C					
Recreational Vehicle Park									C		C						
Restaurant							P	P	P		C						
Restaurant, Drive-Through							C	C	P								
Retail Sales, General							P	P	C		C						

Roadside Stand	P	C					C	C									
Service Station							P	P	P	P							
<u>Stationary Food Vendor</u>							<u>C</u>	<u>C</u>	<u>C</u>								
Veterinary Hospital, Kennel	C						C	P									
INDUSTRIAL USES																	
	A-1	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*	
Businesses and Uses Prohibited by State or Federal Law																	
Finished Goods Assembly										P	P	P					
Heavy Equipment Terminal										C	C	P					
Laboratory, Research, Equipment									C		C	C					
Manufacturing, Heavy General												C					
Manufacturing, Light General											C	P					
Mineral Extraction	C											C	C		C		
Recycling Center Collection						P	P			P	P	P					
Recycling and Salvage Yards												C					
Warehouse, Wholesale, Freight Terminal											C	P					
PUBLIC & QUASI-PUBLIC USES																	

	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Assembly Hall/Community Services	C	C					C	C		C	C			C	C		
Businesses and Uses Prohibited by State or Federal Law																	
Cemetery	C													C		C	
Communication Equipment Facility	C	C			C	C	C	C	C	C	C	P	P	C	C	C	
Convalescence and Care Services		C	C	C	C	C	C							C			
Cultural Facility						C	C							C	C		
Day Care, General		C	C	C	C	C				C	C			C			
Emergency Shelter					P	P		P						P			
Government Offices										C	C			C	C		
Hospital										C	C			C			
Public Parks	C	C	C	C			C	C	C					C	C	C	
Religious Institutions	-	-	C	C	-	-	C	C	-	C	C	-	-	C	-	-	-
Safety Services							C	C		C	C			C			
Utility Services, Major	C	C												C	C	C	C
Utility Services, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Vocational Training Facility														C			
RESIDENTIAL USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2**	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Accessory Dwelling Units		P	P	P													

Businesses and Uses Prohibited by State or Federal Law																			
Day Care, Limited	P	P	P	P	P														
Dwelling, Multiple-Family					P	P	C	C ³	C										
Dwelling, Single-Family	P	P ⁴	P ⁴	P ⁴	C	C ⁴		C ^{2,3}									C		
Dwelling, Two-Family or Duplex			P ¹	P	C	C													
Farmworker Housing Unit	P	-	P	P	P	P	-	P ⁵	-	-	-	-	-	-	-	-	-	-	-
Farmworker Housing Complex	P				P	P		P ⁵											
Mobile Home Park		C	C	C	C	C													
Single Room Occupancy					P	P		C											
Residential Care Facility		C	C	C	C										C				
TEMPORARY USES																			
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*		
Arts and Crafts Show	T						T	T	T	T	T	T	T	T	T	T	T		
Businesses and Uses Prohibited by State or Federal Law																			
Carnivals/Fairs/Fund Raisers	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		
Construction Trailers	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		
Religious Assembly	T													T	T	T	T		
Seasonal Sales	T	T					T	T	T		T	T		T	T	T	T		

Footnotes:

1. Affordable or market rate duplexes are allowed on all corner lots in the R-1 and R-2 zones citywide.
 2. Only if an existing historical structure is planned for relocation to a C-2 zone that adjoins a residential district.
 3. A single residential unit is allowed at a business located in the central business district zone (C-2) upon planning commission approval of a conditional use permit (CUP), while multifamily residential is allowed above a business in the C-2 zone upon planning commission approval of a CUP. A residential unit proposed for a first floor area must be occupied by the property owner or licensed business proprietor, at least four hundred (400) square feet in size, and located at the rear of the business. No more than twenty (20) percent of the existing first floor area can be converted into residential uses and the existing first floor area must be at least two thousand (2,000) square feet in size.
 4. Manufactured homes and factory-built homes located on a permanent foundation are allowed in the specified zones by right or upon planning commission approval of a conditional use permit (CUP).
 5. For single farmworkers, single room occupancy housing is permitted.
- * All PD uses per PD permit, and as consistent with the general plan.

Also see: Chapter [17.36](#) (Design Review). Design review may be required, including for land uses which are otherwise permitted by this title, depending upon the type and location of the development project proposed.

** A commercial use operating from a residential structure originally constructed as a residential structure can be converted from a commercial use to a residential use.

17.58.050 Allowed use regulations.

This section lists allowed uses by zoning district within the downtown form-based code area. The zoning districts are shown on the regulating plan (Figure 17.58-1). This list is not meant to be comprehensive and does not regulate building character or design, but instead delineates the types of uses allowed within a building. These allowed use regulations are unique to this chapter and are intended to implement the vision of the 2006 Winters downtown master plan.

A. Principally Permitted Uses. The following table identifies the permitted uses within the downtown. These allowed use regulations are listed by street type, then by zoning district (D-A or D-B), as applicable. The uses listed are defined in subsection B of this section (Definitions of Permitted Uses). The symbols in the table are defined as:

P—Permitted Use

C—Conditionally Permitted Use

N—Not Permitted

c. Subdivision (A) of Section 17.58.050 of the Municipal Code is hereby amended to read as follows:

Table 17.58-2: Permitted Uses

Uses	Main Street		Railroad Avenue		Secondary Streets		Grant Avenue	
	D-A	D-B	D-A	D-B	D-A	D-B	D-A	D-B
Attached Single-Family Residential	N	N	N	N	N	P	N	N
Banks and Financial Institutions	P	P	P	P	P	C	P	P
Bars, Pubs and Cocktail Lounges	C	C	C	C	N	N	C	C
Bed and Breakfast Inns	P ¹	P ¹	P ¹	P	P	P	P ¹	P
Businesses and Uses Prohibited by State or Federal Law	N	N	N	N	N	N	N	N
Child Day Care	N	N	N	N	C	C	N	C
Commercial Recreation and Entertainment	C	C	C	C	N	N	C	C
Detached Single-Family Residential	N	C	N	N	C	P	N	N
Farmworker Housing Unit	C ^{1,3}	C ^{1,3}	C ^{1,3}	C ^{1,3}	C ^{1,3}	P	C ^{1,3}	C ^{1,3}
Farmworker Housing Complex						P ³		
Government/Institutional	P	P	P	P	P	C	P	P
Hotels or Motels	P ¹	P ¹	P ¹	P ¹	P	P	P ¹	P
Live/Work Units	C	P	P	P	P	C	N	C
Mixed-Uses	P	P	P	P	P	C	C	P
Multifamily Residential	C ¹	P ¹	P ¹	P ¹	P ¹	P	N	P ¹
Neighborhood Commercial	P	P	P	P	P	C	C	N
Offices	P	P	P	P	P	C	P	P
Personal Services	P	P	P	P	P	C	C	P

Religious Institutions	C	C	C	C	N	N	C	C
Retail Commercial	P	P	P	P	P	N	P	P
Service Stations	N	C	C	C	N	N	C	C
Single Room Occupancy	C ¹	C ¹	C ¹	C ¹	C ¹	C ¹	C ¹	C ¹
Sit-Down Restaurants ²	P	P	P	P	C	C	P	P
Specialized Agriculture and Processing	C	C	C	C	C	C	C	C
<u>Stationary Food Vendor</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Notes:

¹ Only on the second floor or above.

² Drive-thrus are not allowed within the downtown form-based code area (see Section 17.58.070(A)(2)(d)).

³ For single farmworkers, single room occupancy housing is permitted.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD
OCTOBER 23, 2018**

***DISCLAIMER:** These minutes represent the interpretation of statements made and questions raised by participants in the meeting. They are not presented as verbatim transcriptions of the statements and questions, but as summaries of the point of the statement or question as understood by the note taker.*

Chairman Myer called the meeting to order at 6:30 p.m.

PRESENT: Commissioners, Adams, Altamirano, Contreras, Riley, Chairman Myer

ABSENT: Commissioners Baker, Schrupp

STAFF: City Manager John Donlevy, Contract Planner Dave Dowswell, Contract Engineer Alan Mitchell, Management Analyst Dagoberto Fierros

Commissioner Riley led the pledge of allegiance.

CITIZEN INPUT: None.

CONSENT ITEM: Minutes of the July 24, 2018 and August 14, 2018 regular Planning Commission meeting.

Riley moved to approve minutes, Adams seconded.

AYES: Commissioners Adams, Altamirano, Contreras, Riley, Chairman Myer

NOES: None

ABSTAIN: None

ABSENT: Commissioners Baker, Schrupp

STAFF/COMMISSION REPORTS:

None.

DISCUSSION ITEM:

- A. Public Hearing and Consideration of adopting an ordinance amending Title 17 of the Municipal Code having to do with food trucks and stationary and roaming stands (SB 946).

Planner Dave Dowswell presented the proposed ordinance amendments to Title 17 of the Municipal Code and informed the Commission on new state regulations that affect food carts (SB 946).

PUBLIC COMMENTS:

Maria Heilman and Kimberly Calderone, Winters residents, expressed their support for the Buckhorn food truck.

COMMISSIONER/STAFF COMMENTS:

Commissioner Contreras stated that the law should not give advantages or disadvantages when it comes to where commercially established businesses and food trucks can operate in permitted zones.

Chapter 5.68 FOOD VENDING VEHICLES**Note**

- * Prior history: prior code §§ 42.05.100—42.05.111 and Ords. 2013-0021, 2012-050 and 2008-008.

Article I. General Provisions**5.68.005 Purpose and findings.**

Food vending vehicles benefit our community by providing services to those who live and work in areas where food may not be readily available. In addition, they offer an entrepreneurial opportunity for the people in our community to open a small business and provide unique foods that may not be available at brick-and-mortar restaurants.

The city also needs to protect the public by ensuring that these large vehicles are operated in a safe manner and do not create nuisances in our neighborhoods. Reasonable regulations are necessary to ensure that food vending vehicles are operated in accordance with health laws of the state; do not block or hinder vehicle or pedestrian traffic on our streets and sidewalks; do not cause public safety problems by contributing to crowding near schools and entertainment establishments; and do not disturb the quiet use and enjoyment of our residential neighborhoods. Therefore, the regulations in this chapter are enacted in accordance with the authority granted in Section 22455 of the California Vehicle Code. (Ord. 2015-0016 § 1)

5.68.010 Definitions.

As used in this chapter, the following definitions apply:

“Director” means the city’s director of finance, or designee.

“Driver permit” means a food vending vehicle driver permit.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” does not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Property permit” means a food vending vehicle property permit.

“Residential zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, and RO zoning districts as established pursuant to Title 17.

“Vehicle permit” means a food vending vehicle permit.

“Vendor” means any person who operates a food vending vehicle. (Ord. 2015-0016 § 1)

5.68.015 Violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to Chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

D. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof. (Ord. 2015-0016 § 1)

Article II. Food Vending Vehicle Permits

5.68.020 Food vending vehicle permit required.

A. No person shall operate a food vending vehicle unless a food vending vehicle permit issued pursuant to this chapter is in effect for that food vending vehicle.

B. Every permittee, upon receipt of a vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the vehicle permit that is in effect for that vehicle.

D. All vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. No person shall sell or transfer, or attempt to sell or transfer, any vehicle permit. (Ord. 2015-0016 § 1)

5.68.030 Vehicle permit application.

A. An application for a food vending vehicle permit shall be filed with the director and shall contain the following:

1. The individual and business name, address, and telephone number of the permit applicant;
2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;
3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business that operates the food vending vehicle;
4. A copy of a valid business operations tax certificate issued pursuant to Chapter 3.08;
5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;
6. Proof of compliance with the insurance requirements set forth in Section 5.68.060;
7. Proof that the vehicle is in compliance with applicable requirements of the state of California and the county of Sacramento regarding the operation of a food vending vehicle;
8. The address where the food vending vehicle is stored when not in use;

9. For each person with a ten (10) percent or greater financial interest in the business that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a ten (10) percent or greater financial interest in the business that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to Section 5.68.100 shall be exempt from the requirements of this subsection;

10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a vehicle permit. (Ord. 2015-0016 § 1)

5.68.040 Vehicle permit issuance and denial.

A. Except as provided in subsection C of this section, a food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.030, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the California Vehicle Code equipment requirements; provided, however, that the director may accept proof of compliance with state of California or Sacramento County inspection requirements for operating a food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

B. A vehicle permit may be denied by the director on any of the following grounds:

1. The information submitted pursuant to Section 5.68.030 is materially false or incomplete;

2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to Chapter 1.28;

3. Within twelve (12) months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her vehicle permit revoked;

4. The applicant has not paid the applicable business operations tax pursuant to Chapter 3.08; or

5. A person with ten (10) percent or greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed,

irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit him or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (B)(5) only if the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code Section 4852.01, et seq. (Ord. 2015-0016 § 1)

5.68.045 Term of vehicle permit—Renewal.

A. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid vehicle permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Vehicle permit renewals may be issued or denied in accordance with the provisions of Section 5.68.040.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid vehicle permit. (Ord. 2015-0016 § 1)

5.68.050 Posting requirements.

A. No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window in a manner specified by the director.

B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than

three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed. (Ord. 2015-0016 § 1)

5.68.060 Liability insurance.

A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

1. In an amount not less than one million dollars (\$1,000,000.00) single limit per occurrence; and
2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and
3. Providing that the city, its officers, employees and agents are named as additional insureds under the policy; and
4. Covering all losses and damages as specified in Section 5.68.070; and
5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and
6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the vehicle permit, without thirty (30) days' written notice to the director prior to the effective date of such cancellation or change in coverage.

B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection A of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to Section 5.68.220.

C. No person shall operate a food vending vehicle without insurance coverage in effect as required by this section. (Ord. 2015-0016 § 1)

5.68.070 Indemnify and hold harmless.

The permittee and food vending vehicle owner(s) shall defend, indemnify and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee's agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle. (Ord. 2015-0016 § 1)

Article III. Food Vending Vehicle Driver Permits

5.68.080 Food vending vehicle driver permit required.

A. No person shall drive a food vending vehicle unless the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her driver permit for examination.

D. All driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. No person shall sell or transfer, or attempt to sell or transfer, any driver permit. (Ord. 2015-0016 § 1)

5.68.090 Food vending vehicle driver permit procedure.

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

1. The name and address of the applicant;
2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;
3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;
4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;
5. A list of the applicant's physical or mental conditions, or any medications being taken, that would interfere with the proper management and control of a motor vehicle;
6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a driver permit. (Ord. 2015-0016 § 1)

5.68.100 Driver permit issuance and denial.

A. Except as provided in subsection C of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.090;
2. After fingerprinting of the applicant by the police department, if the director so requires; and

3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.

B. A driver permit shall be denied by the director on any of the following grounds:

1. The applicant failed to comply with the requirements of this section;

2. The information submitted pursuant to Section 5.68.090 is materially false or incomplete;

3. The applicant has any unpaid administrative penalties imposed pursuant to Chapter 1.28 for the violation of provisions of this chapter;

4. Within twelve (12) months of the date of application, the applicant has had his or her driver permit revoked; or

5. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the California Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (B)(5) only if the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code Section 4852.01, et seq. (Ord. 2015-0016 § 1)

5.68.105 Term of driver permit—Renewal.

A. All food vending vehicle driver permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid driver permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Driver permit renewals may be issued or denied in accordance with the provisions of Section 5.68.100.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid driver permit. (Ord. 2015-0016 § 1)

Article IV. Food Vending Vehicle Property Permits

5.68.110 Food vending vehicle property permit required.

A. No property owner shall allow another person to operate a food vending vehicle on their property for more than thirty (30) minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No property owner shall allow another person to operate a food vending vehicle on their property in violation of any conditions of a property permit or conditional use permit in effect for that property, including but not limited to conditions relating to the number of vehicles allowed and hours of operation.

C. All property permits are the property of the city and each shall authorize the operation of food vending vehicles on a specified property. No person shall sell or transfer, or attempt to sell or transfer, any property permit. (Ord. 2015-0016 § 2)

5.68.120 Property permit application.

A. An application for a food vending vehicle property permit shall be filed with the director and shall contain the following:

1. The name, address, and telephone number of the permit applicant;
2. Address and description of the private property upon which the applicant wishes to operate one or more food vending vehicles;
3. Written evidence that the applicant is an owner, lessee, or holder of a similar interest in the private property;
4. The name and address of all owners of the private property;
5. Such other information as may be required by the director to further the purposes of this chapter.

B. Every application for a property permit shall be accompanied by a nonproratable and nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a property permit. (Ord. 2015-0016 § 2)

5.68.130 Property permits for one or two food vending vehicles.

A. If the applicant seeks a food vending vehicle property permit that authorizes the operation of one or two food vending vehicles on the subject property, the applicant shall comply with the following:

1. Not later than five days after filing a complete application required by Section 5.68.120, the applicant shall post in a conspicuous place on the property for which the application was submitted, a notice of intent to allow food vending vehicles. The notice shall be provided by the city, and contain:

- a. A heading of "NOTICE OF INTENT TO ALLOW FOOD VENDING VEHICLES ON THIS PROPERTY";
- b. The name of the applicant;
- c. A description of the type of operation sought in the application, including the number of food vending vehicles, the hours of operation, and any other information requested by the director;
- d. The date that the director is required to act on the application, and a request that any comments or questions concerning the application should be communicated to the director prior to that date; and
- e. Notice that the director's decision to grant the application may be appealed pursuant to Article VI of this chapter.

2. No later than five days after filing a complete application required by Section 5.68.120, the applicant shall mail the notice of intent to allow food vending vehicles prescribed in subsection (A)(1) of this section to all owners of property as shown on the latest equalized assessment roll within a radius of five hundred (500) feet of the property that is the subject of the application.

B. Failure of any person to receive notice as required by subsection A of this section shall not affect the validity of any decision of the director.

C. Applications for a property permit shall be investigated by the director. The director shall take into consideration the existing uses of the surrounding properties and any public safety problems or nuisances that the issuance of the permit might create. The director shall also refer every application to the chief of police for a written report concerning any potential public safety problems, and to the planning director for a written report concerning the compatibility of the proposed use of the premises with existing zoning and neighborhood land uses. The director may also consider other sources of information. (Ord. 2015-0016 § 2)

5.68.140 Property permits for more than two food vending vehicles.

If the applicant seeks a food vending vehicle property permit that authorizes the operation of more than two food vending vehicles on the subject property at the same time, a valid conditional use permit for an outdoor market issued pursuant to the Planning and Development Code for the subject property is required. The application for a property permit must contain a copy of the conditional use permit, including all conditions of the permit. (Ord. 2015-0016 § 2)

5.68.150 Property permit issuance and denial.

A. In issuing a food vending vehicle property permit, the director may impose conditions on the permit relating to public health, safety, and welfare. The conditions may include, but are not limited to, regulations on the time of operations, the sale and consumption of alcohol, security measures, sanitation, restrooms, furniture, and lighting.

- B. A property permit may be denied by the director on any of the following grounds:
1. The information submitted in the application for the property permit is materially false or incomplete;
 2. The operation of food vending vehicles on the subject property would be a violation of this code, including, but not limited to, the provisions of Articles VII, VIII and IX of this chapter;
 3. The operation of food vending vehicles on the subject property, in the director's opinion, would likely cause a public safety problem, create a public nuisance, or would otherwise be contrary to the public interest;
 4. The applicant or any owner of the private property has unpaid administrative penalties imposed pursuant to Chapter 1.28 for the violation of provisions of this chapter; or
 5. Within twelve (12) months of the date of application, the applicant or any owner of the private property has had a property permit revoked. (Ord. 2015-0016 § 2)

5.68.160 Notice of decision.

- A. The director shall decide to grant or deny an application for a food vending vehicle property permit in writing within sixty (60) days after the date of application.
- B. Within five days after the director's decision, the director shall mail written notice of the decision to the applicant. The notice shall state whether the director issued or denied the property permit, and if the director issued the property permit, whether any conditions were imposed. The notice shall also contain a notification of appeal rights set forth in Article VI of this chapter.
- C. The director shall also mail the written notice of the decision to all owners of property as shown on the latest equalized assessment roll within a radius of five hundred (500) feet of the property which is the subject of the application; and post the notice in a conspicuous place on the premises for which the application was submitted.
- D. Failure of any person to receive notice as required by subsection B of this section shall not affect the validity of any decision made by the director. (Ord. 2015-0016 § 2)

5.68.170 Term of property permit—Renewal.

- A. All food vending vehicle property permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.
- B. A permittee may file an application for renewal of a valid property permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Sections 5.68.130 and 5.68.140 and subsection C of Section 5.68.160 do not apply to applications for the renewal of a valid property permit.

E. Property permit renewals may be issued or denied in accordance with the provisions of Section 5.68.150.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid property permit. (Ord. 2015-0016 § 2)

5.68.180 Exemption of heavy commercial and industrial zoning districts.

An owner of private property in a heavy commercial and industrial zoning district is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property. (Ord. 2015-0016 § 2)

5.68.190 Exemption of construction sites.

An owner of private property upon which any building or structure is being constructed, demolished, altered, or repaired is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property, during the hours that such activity is taking place, and for the purpose of selling food and beverages to persons engaging in such activity. (Ord. 2015-0016 § 2)

5.68.200 Exemption of established operations on private property.

A. An owner of private property shall be exempt from the food vending vehicle property permit requirement in Section 5.68.110 and Chapter 17.232, Nonconforming Uses, if the food vending vehicle permittee operating on the property has an established operation on private property, as provided in this section.

B. A food vending vehicle permittee has an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;

2. The exemption applies only as long as the property owner's consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as a food vending vehicle permit related to a vehicle operating on the property, is continuously maintained as valid. If the vehicle permit

is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a vehicle permit is subsequently obtained;

4. This exemption applies only as long as the business of operating a food vending vehicle that was operating on the property on March 31, 2008 is continuously operating there. If the business is sold, the new owner may continue to operate a food vending vehicle on the property in accordance with this exemption;

5. This exemption applies to the operation of only one food vending vehicle on the property;

6. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

7. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code. (Ord. 2015-0016 § 2)

Article V. Suspension, Revocation, and Modification of Permits

5.68.210 Grounds for suspending, revoking, or modifying a permit.

The director may suspend, revoke, or modify any permit issued pursuant to this chapter on any of the following grounds:

A. The director determines that any activity authorized by the permit is being carried out in a manner that constitutes a nuisance, or is injurious to the public health, safety, or welfare;

B. The operation of a food vending vehicle violates any condition of the permit or the conditional use permit of the private property upon which it is operating;

C. The operation of a food vending vehicle violates any provision of this chapter, this code, the Sacramento County Code, state law, or any other applicable law, including, but not limited to:

1. Chapter 5.68 regarding food vending vehicles,

2. Chapter 5.88 regarding outdoor vending,

3. Chapter 10.60 regarding the broadcasting of sound, and

4. The California Retail Food Code (commencing with Section 113700 of the California Health and Safety Code); or

D. There exists any of the grounds that would have been grounds for denial of the permit application. (Ord. 2015-0016 § 3)

5.68.220 Hearing required—Exception.

A. No permit issued pursuant to this chapter shall be suspended, revoked, or modified until the permittee is provided notice pursuant to Section 5.68.230 and an opportunity to be heard by the director.

B. Notwithstanding subsection A of this section, a permit issued pursuant to this chapter may be suspended or revoked immediately upon the director's determination that any of the following circumstances exist:

1. The food vending vehicle permittee is in violation of the insurance requirements set forth in Section 5.68.060; or
2. Immediate suspension or revocation of the permit is necessary to protect the public health, safety, or welfare.

C. After a permit is immediately suspended or revoked pursuant to subsection B of this section, the permittee shall be provided notice pursuant to Section 5.68.230 and an opportunity to be heard by the director. (Ord. 2015-0016 § 3)

5.68.230 Notice of hearing.

A. Notice of a hearing on the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter shall be served on the permittee. The notice shall be in writing and contain a brief statement of the grounds for the action, and the date, time, and location of the hearing.

B. The notice of hearing shall be served personally or by certified mail to the permittee at the address submitted in the permit application at least ten (10) calendar days prior to the hearing. Service by certified mail is complete at the time the notice is deposited in the mail. (Ord. 2015-0016 § 3)

5.68.240 Notice of decision.

A. If, after the permittee has had an opportunity to be heard, the director decides to suspend, revoke, or modify a permit issued pursuant to this chapter, the director shall cause written notice of the decision to be served personally or by certified mail to the permittee. The notice shall be in writing and contain:

1. The specific grounds for the decision;
2. A statement that the permittee may appeal the decision by submitting an appeal, in writing to the director, within ten (10) calendar days of the date of service of the notice; and
3. A statement advising that the failure to appeal the decision will constitute a waiver of all rights to an appeal hearing, and the decision will be final. Failure to properly and timely appeal the decision shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the director's decision.

B. The notice of decision shall be served personally or by certified mail to the permittee at the address submitted in the permit application. Service by certified mail is complete at the time the notice is deposited in the mail. (Ord. 2015-0016 § 3)

5.68.250 Return of the permit.

A permittee shall return any permit that has been suspended or revoked to the director within three calendar days of the receipt of the notice of the director's decision. (Ord. 2015-0016 § 3)

Article VI. Appeals

5.68.260 Appeal of suspension, revocation, or modification of permit.

Any permittee aggrieved by the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter, may appeal the decision by filing a written notice of appeal with the director within ten (10) calendar days from the date of service of the notice of decision. (Ord. 2015-0016 § 4)

5.68.270 Appeal of issuance of food vending vehicle property permit.

Any aggrieved person may appeal the decision of the director to grant an application for a food vending vehicle property permit by filing a written notice of appeal with the director within twenty-five (25) calendar days from the date of service of the notice of decision. (Ord. 2015-0016 § 4)

5.68.280 Written notices of appeal.

- A. A written notice of appeal required by this chapter shall contain:
 - 1. A brief statement in ordinary and concise language of the specific decision appealed;
 - 2. A brief statement in ordinary and concise language of the reasons why it is claimed the protested decision should be reversed or otherwise set aside, any material facts claimed to support the contentions of the appellant, and the relief sought;
 - 3. The signatures of all appellants and their official mailing addresses; and
 - 4. A declaration under penalty of perjury by at least one appellant as to the truth of the matters stated in the notice of appeal. (Ord. 2015-0016 § 4)

5.68.290 Appeal hearing.

- A. All appeals shall be heard by a hearing examiner appointed pursuant to Section 8.04.070.
- B. Upon receipt of any appeal filed pursuant to this section, the director shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
 - 1. If the appeal is received by the director not later than fifteen (15) days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on that date.
 - 2. If the appeal is received by the director less than fifteen (15) days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on the next subsequent appeal hearing date.
- C. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

D. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the appeal hearing. (Ord. 2015-0016 § 4)

5.68.300 Failure to appeal.

Failure of any person to file a timely appeal in accordance with the provisions of this chapter constitutes an irrevocable waiver of the right to an administrative appeal a failure to exhaust administrative remedies. (Ord. 2015-0016 § 4)

Article VII. Operation—Generally

5.68.310 Stopping.

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner. (Ord. 2015-0016 § 5)

5.68.320 Lighting.

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties. (Ord. 2015-0016 § 5)

5.68.330 Utilities.

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water, or any other utilities, unless the connection is expressly approved as a condition of a valid food vending vehicle property permit. (Ord. 2015-0016 § 5)

5.68.340 Signs and furniture.

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle. (Ord. 2015-0016 § 5)

5.68.350 Blocking vehicular and pedestrian traffic.

While operating a food vending vehicle, vendors shall keep customers and other patrons from blocking all streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic. (Ord. 2015-0016 § 5)

5.68.360 Maintain area free of trash.

While operating a food vending vehicle, vendors shall maintain the area surrounding the vehicle free of trash and other debris. Vendors shall provide their customers with a receptacle for garbage and pick up any trash in the area before leaving. Vendors shall not dump garbage or trash generated by the operation of the food vending vehicle in any public or private garbage receptacle that is not owned by or leased to the vendor. (Ord. 2015-0016 § 5)

5.68.370 Toilet and handwashing facilities.

A. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within four hundred (400) feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the county of Sacramento's approval of readily available toilet and handwashing facilities within two hundred (200) feet travel distance of that location, issued in accordance with Section 114315 of the California Health and Safety Code.

B. A copy of the county's approval shall be maintained with the corresponding food vending vehicle at all times and be posted in a location that is easily visible by patrons.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the county's approval that is in effect for that vehicle. (Ord. 2015-0016 § 5)

Article VIII. Operation on the Street

5.68.380 Operation near other food vending vehicles prohibited.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within four hundred (400) feet of any other food vending vehicle. (Ord. 2015-0016 § 6)

5.68.390 Operation near intersection prohibited.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within fifty (50) feet of any street intersection controlled by a traffic light or stop sign. (Ord. 2015-0016 § 6)

5.68.400 Operation near outdoor seating prohibited.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within one hundred (100) feet of any outdoor seating area of any restaurant, café, or other business. (Ord. 2015-0016 § 6)

5.68.410 Operation near schools restricted.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within four hundred (400) feet of any elementary, middle, junior high, or high school between the hours of 7:00 a.m. and 4:00 p.m. on days that school is in session. (Ord. 2015-0016 § 6)

5.68.420 Operation near entertainment establishments restricted.

No person shall operate a food vending vehicle while stopped, standing, or parked on the street within one thousand (1,000) feet of any establishment that maintains a valid entertainment permit, issued pursuant to Chapter 5.108, between 1:00 a.m. and 3:00 a.m. (Ord. 2015-0016 § 6)

5.68.425 Operation adjacent to property in a residential zoning district.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked adjacent to any property in a residential zoning district:

A. Later than 8:00 p.m. or earlier than 8:00 a.m. of any day during the months of April, May, June, July, August, September and October; or

B. Later than 6:00 p.m. or earlier than 8:00 a.m. of any day during the months of November, December, January, February, and March. (Ord. 2015-0016 § 6)

5.68.430 Operation within parking regulations.

No person shall operate a food vending vehicle on the street while stopped, standing, or parked in violation of any parking regulation. (Ord. 2015-0016 § 6)

Article IX. Operation on Private Property

5.68.440 No operation on property in a residential zoning district.

Notwithstanding any provision of this code to the contrary, no person shall operate a food vending vehicle on private property in a residential zoning district. (Ord. 2015-0016 § 7)

5.68.450 Property permit required.

A. No person shall operate a food vending vehicle on private property for more than thirty (30) minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No person shall operate a food vending vehicle on private property in violation of any condition of any applicable property permit or conditional use permit.

C. A person shall be exempt from subsections A and B of this section, if the owner of the private property is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property, pursuant to Article IV of this chapter. (Ord. 2015-0016 § 7)

5.68.460 Consent required.

A. No person shall operate a food vending vehicle on private property unless the property owner has given the vendor his or her express written consent to do so.

B. Prior to vending on private property, the written consent of the owner of the property shall be provided to the director, in the form approved by the director.

C. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.

D. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle. (Ord. 2015-0016 § 7)

5.68.470 Operation on private property—Generally.

No person shall operate a food vending vehicle on private property if any of the following conditions apply:

A. The food vending vehicle is stopped, standing, or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;

B. The food vending vehicle is stopped, standing, or parked on any surface that is not paved with concrete, asphalt, or other similar material; or

C. The food vending vehicle is occupying or blocking any parking spaces required for the primary use of the parcel as determined pursuant to Chapter 17.608. (Ord. 2015-0016 § 7)

3.